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MEMORANDUM

January 12, 2015

TO: Senate Agriculture, Natural Resources, and Energy Committee

FROM: David Beaujon, Legislative Council Staff, 303-866-4781

SUBJECT: 2015 Legislative Session Senate Agriculture, Natural Resources, and Energy Committee Sunset Review(s)

Sunset laws allow the General Assembly to periodically review the need for state regulations, advisory committees, or state agencies to update the law creating the agency or function. Fifteen functions of Colorado government that are subject to sunset reviews will be considered by various Senate committees during the 2015 legislative session. The fifteen functions of government to be reviewed this session are subject to sunset termination dates of July 1, 2015, or September 1, 2015, unless they are continued by the General Assembly in a bill. Of the fifteen, the Senate Agriculture, Natural Resources, and Energy Committee has been assigned the following sunset hearings:

- Pesticide Applicators' Act;
- Office of Consumer Counsel; and
- Utility Consumer's Board

The Senate Agriculture, Natural Resources, and Energy Committee will meet on **Wednesday, January 21, 2015, upon adjournment** for the sunset hearing on the Pesticide Applicators' Act. The committee will also meet on **Thursday, January 22, 2015, starting at 1:30 PM** for the sunset hearings for the Office of Consumer Counsel and the Utility Consumer's Board.

Sunset Reports

In the year preceding sunset hearings the Colorado Department of Regulatory Agencies (DORA) produces "sunset reports" for each of the agencies and functions of government subject to sunset laws. These reports describe the history of the entity, examine the laws which created the entity, and make recommendations regarding changes to the law and continuation of the entity. Sunset reports for the reviews to be considered by the Senate Agriculture, Natural Resources, and Energy Committee are included in this packet.

Legislation to Continue an Entity or Function of Government

Bill titles and contents. A committee of reference may recommend that an agency or function of government subject to a sunset review be continued or terminated. If the assigned committee of reference believes that an agency or function should be continued, it recommends a bill to the full General Assembly to accomplish this. In addition to continuing the existence of the agency or function, the bill may also make adjustments to the area of the law establishing the agency or function of government. Agencies and functions of government may be continued for any time period up to 15 years. Advisory committees may be extended for no more than ten years.

A committee of reference may endorse all, some, or none of the recommendations made by DORA in a sunset report for continuing, terminating, or amending the law establishing an agency or government function. After conducting a sunset hearing, the committee of reference will determine whether or not to introduce a bill to continue an agency or government function, the title(s) of any sunset bill(s) introduced, and the provisions of the bill(s). No more than one division, board, or agency may be continued in any given bill, and the division, board, or agency must be cited in the bill's title.

Bill sponsorship. The chair of each committee of reference which conducts a sunset review and recommends a bill for the consideration of the General Assembly may assign the proposed bill for sponsorship to a member of the committee of reference or to a legislator who is not a member of the committee of reference (if approved by a majority vote of the committee's members). No more than two sunset bills may be assigned to any one member of the General Assembly. Sunset bills do not count against the sponsor's bill introduction limit.

Terminating an Entity or Function of Government

A standing committee recommends termination of an entity or function simply by not proposing legislation for its continuation. However, a committee may choose to introduce a bill to clean up statutes that will no longer be needed if an entity is terminated. In the event that the General Assembly allows an agency or function of state government to terminate, the agency or function continues to exist for the next succeeding year for the purpose of "winding up affairs."

Committee Procedures for Sunset Review of Entities and Functions of Government

DORA analysts, agency directors, program administrators, interested citizens, and representatives of involved professional organizations often testify at sunset hearings. The standard format for conducting a sunset hearing on an agency or function of government is as follows.

1. The authoring analyst from DORA makes a brief presentation of the report to the committee and gives an overview of DORA's recommendations for altering the law in the subject area.
2. The program administrator or agency director involved comments on the recommendations made in the DORA report.
3. Members of involved professions and/or interested citizens comment on the report.
4. The committee considers motions on any of the DORA recommendations or conceptual suggestions of committee members for inclusion in a draft bill.
5. The committee considers a motion to recommend the draft bill for introduction.

The same standing committees which conducted the sunset hearings will be the initial committees to hear any bills introduced as a result of the hearings.

Consideration of Future Sunset Dates

When recommending the continuation of an agency or function of government, a committee of reference may wish to consider setting future sunset dates so as to avoid a large number of sunset reviews in any given year. Table I shows the number of reviews scheduled for future years.

Table I: Number of Sunset Reviews Scheduled Annually

Year	Reviews	Year	Reviews
2016	12	2020	13
2017	15	2021	4
2018	16	2022	7
2019	15	2023	4

Sunset Review of Entities and Functions Is Based on Statutory Criteria

In conducting sunset hearings, a committee of reference considers whether a public need exists for the continued existence of an agency or function of government and whether regulation by the state is the least restrictive regulation consistent with the public interest. The determination as to whether a public need exists for the agency or function of government, and for the degree of regulation it practices, is based on a number of criteria set forth below:

1. whether regulation by the agency is necessary to protect the public health, safety, and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less, or the same degree of regulation;
2. if regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether agency rules enhance the public interest and are within the scope of legislative intent;
3. whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;
4. whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
5. whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
6. the economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
7. whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
8. whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action; and
9. whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.